

REMARKS/ARGUMENTS

Claims 1 through 4, 6, 8, 10 through 15, 17, 18, 20, 21, 24 through 32, 36 through 41, and 43 remain pending in this application. Claims 5, 9, 33, and 34 have been cancelled. Claims 7, 16, 19, 22, 23, 35, and 42 have been withdrawn. Claim 43 is new.

The Action objects to the disclosure as informal. The Action asserts that on page 11, line 12, "inlet 19" apparently should be "outlets 17". The specification has been amended to replace "inlet 19" with "outlets 17" on page 11, line 12 as suggested by the Examiner to obviate the objection. The Action asserts that on page 15, line 2, and page 17, line 30, reference numeral "50" denotes different elements. The specification has been amended to replace reference numeral "50" with reference numeral "51" on page 17, line 30. The Action asserts that page 19, lines 2 and 5, reference numerals "90" and "92" are missing. Reference numerals "90" and "92" have been added to Figure 21. Accordingly, reconsideration and withdrawal of the objection are respectfully submitted.

The Action objects to figures 3 and 15 because cross-hatching is missing. Figures 3 and 15 have been corrected to add cross-hatching. Figure 17 is objected to because reference character "37'" apparently should be "34'". Figure 17 has been corrected to replace reference numeral "37'" with "34'". The Action objects to Figure 19 because reference numeral "52" apparently should be "49". Figure 19 has been corrected to replace reference numeral "52" with reference numeral "49". Accordingly, reconsideration and withdrawal of the objection are respectfully submitted.

The Action objects to the drawings under 37 C.F.R. 1.83(a) as failing to show every feature of the invention specified in claims 4, 10, 18, 25, 26, 34, and 40. Claim 34 is cancelled rendering the objection moot.

The Action asserts that the drawings must show every feature of the invention specified in the claims. Applicants respectfully disagree. 37 C.F.R. §1.83(a) provides, as follows:

The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box).

Page 9, lines 11 through 18 of the specification provides that the “[h]ousing 5 preferably also has a vibration mechanism for imparting a vibratory motion to bottom wall 6. It will be appreciated by those skilled in the art that any of the known methods suitable for generating a vibratory motion in a foot spa may be used in foot spa 1 and are within the scope of the present invention. For example, these methods include, but are not limited to, a motor driven shaft having an eccentric weight attached thereto and an unbalanced rocker arm” that provides support for claim 4. Page 8, lines 30 provides that “[f]luid outlets 17 can be adjustable, such as pivotally mounted, so that a user can alter the direction of flow of the fluid in reservoir 9” that provides support for claim 10. Page 7, lines 25 provides that an “ionic generator” that provides support for claim 25. Page 15, lines 28 through 29 provides “roller actuator 50 is covered in an soft elastic material” that provides support for claim 40. Applicants respectfully submit that the specification, in conjunction with Figures 1 through 21, provides proper understanding of the claimed invention according to claims 4, 10, 25, and 40. Therefore, a detailed illustration including specific features is not essential for a proper understanding of the invention.

Furthermore, the Action objects to the drawings under 37 C.F.R. 1.83(a) as failing to show every feature of the invention specified in claim 18. Page 7, lines 15 through 16 provides that “the raised surface can have apertures 15 to emit and/or receive fluid therefrom”. Apertures 15 are shown in Figures 1 and 2.

In addition, the Action objects to the drawings under 37 C.F.R. 1.83(a) as failing to show every feature of the invention specified in claim 26. Page 14, lines 13 through 16 provide that the “foot spa 1 preferably can have an aeration system with a fluid circulation network having the pump discussed above, and one or more venturi mixers, all preferably retained substantially in the housing. For example, referring to Fig. 1, foot spa 1 can have

one or more air conduits 45 that are in fluid communication with a source of air 46 flow, such as an air pump". Reference numeral 46 is shown in Figure 7.

Accordingly, reconsideration and withdrawal of the objection to the drawings are respectfully submitted.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. The Action asserts correction is required for proper antecedent basis for the "spaced distance from said bottom wall" language set forth in claim 1. The specification has been amended on page 8, line 21 to provide proper antecedent basis. No new matter has been added. The Action asserts correction is required for proper antecedent basis for "temperature controller" set forth in claim 18. Claim 18 has been amended so proper antecedent basis is provided. The Action asserts correction is required for proper antecedent basis for "roller controller" set forth in claims 36 through 41. Claims 36 through 41 have been amended so proper antecedent basis is provided.

Accordingly, reconsideration and withdrawal of the objection to the specification are respectfully submitted.

Claim 4 is rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art. As discussed above, page 9, lines 11 through 18 of the specification provides that the "[h]ousing 5 preferably also has a vibration mechanism for imparting a vibratory motion to bottom wall 6. It will be appreciated by those skilled in the art that any of the known methods suitable for generating a vibratory motion in a foot spa may be used in foot spa 1 and are within the scope of the present invention. For example, these methods include, but are not limited to, a motor driven shaft having an eccentric weight attached thereto and an unbalanced rocker arm". Applicants respectfully submit that the specification, in conjunction with Figures 1 through 21, provides proper understanding of the claimed invention according to claim 4. Accordingly, reconsideration and withdrawal of the rejection are respectfully submitted.

Claim 10 is rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art. As discussed above, page 8, lines 30 provides that “[f]luid outlets 17 can be adjustable, such as pivotally mounted, so that a user can alter the direction of flow of the fluid in reservoir 9”. Applicants respectfully submit that the specification, in conjunction with Figures 1 through 21, provides proper understanding of the claimed invention according to claim 10. Accordingly, reconsideration and withdrawal of the rejection are respectfully submitted.

Claim 18 is rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art. As discussed above, Page 7, lines 15 through 16 provides that “the raised surface can have apertures 15 to emit and/or receive fluid therefrom”. Apertures 15 are shown in Figure Figures 1 and 2. Applicants respectfully submit that the specification, in conjunction with Figures 1 through 21, provides proper understanding of the claimed invention according to claim 18. Accordingly, reconsideration and withdrawal of the rejection are respectfully submitted.

Claims 21 and 31 are rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art. Page 15, lines 2 through 5 provides that “control switches 22, as well as roller actuator 50 are preferably used to control the functions of foot spa 1”. Applicants respectfully submit that the specification, in conjunction with Figures 1 through 21, provides proper understanding of the claimed invention according to claims 21 and 31. Accordingly, reconsideration and withdrawal of the rejection are respectfully submitted.

Claim 25 is rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art. As discussed above, page 7, lines 25 provides that an “ionic generator”. Applicants respectfully submit that the specification, in conjunction with Figures 1 through 21, provides proper understanding of the claimed invention according to claim 25. Accordingly, reconsideration and withdrawal of the rejection are respectfully submitted.

Claim 26 is rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art. As discussed above, page 14, lines 13 through 16 provides that the “foot spa 1 preferably can have an aeration system with a fluid circulation network having the pump discussed above, and one or more venturi mixers, all preferably retained substantially in the housing. For example, referring to Fig. 1, foot spa 1 can have one or more air conduits 45 that are in fluid communication with a source of air 46 flow, such as an air pump”. Reference numeral 46 is shown in Figure 7. Applicants respectfully submit that the specification, in conjunction with Figures 1 through 21, provides proper understanding of the claimed invention according to claim 26. Accordingly, reconsideration and withdrawal of the rejection are respectfully submitted.

Claim 34 is rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art. Claim 34 has been cancelled rendering the rejection moot.

Claims 36 through 41 is rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art. As discussed above, claims 36 through 41 have been amended. Applicants respectfully submit that the specification, in conjunction with Figures 1 through 21, provides proper understanding of the claimed invention according to claim 26. Accordingly, reconsideration and withdrawal of the rejection are respectfully submitted.

Claims 9 and 32 are rejected under 35 U.S.C. §112, second paragraph as being indefinite. The Action asserts that claim 9 is redundant to claim 1. Claim 9 has been cancelled. Claim 32 has been amended for clarification. Accordingly, reconsideration and withdrawal of the rejection are respectfully submitted.

Claims 1, 2, 4, 8, 9, 11, 12, 14, 15, 17, 20, 21, 24, 26, and 29 through 32 stand rejected under 35 U.S.C. §102(b) as being anticipated by Kurosawa U.S. Patent No.

4,497,313 (hereinafter "Kurosawa"). Claim 9 has been cancelled rendering the rejection moot.

Claim 1 provides for a remote control.

Kurosawa provides for push buttons or rotating dials as shown in Figure 1 and "vibrators 8 controlled by control means 10". (col. 3, lines 16-17).

Therefore, Kurosawa does not disclose or suggest a remote control, as recited in claim 1. Reconsideration and withdrawal of the rejection are requested.

Claims 2, 4, 8, 11, 12, 14, 15, 17, 20, 21, 24, 26, and 29 through 32 depend from claim 1, and, thus, are also not anticipated by Kurosawa. Reconsideration and withdrawal of the rejection are requested.

Claims 3, 14, 17, 24, 27 through 32, 34, 36 through 39, and 41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kurosawa and Ferber et al. U.S. Patent No. 6,385,795 (hereinafter "Ferber"). Claim 34 has been cancelled rendering the rejection moot.

Claims 3, 14, 17, 24, 27 through 32, 36 through 39, and 41 depend from claim 1 and claims 18, 20, 23, 24, 26 through 34, and 40 depend from claim 17 that further depends from claim 1. Claim 1 provides for a remote control.

As discussed above, Kurosawa provides for push buttons or rotating dials as shown in Figure 1 and "vibrators 8 controlled by control means 10". (col. 3, lines 16-17).

Ferber provides that "a selector 42 is located on upper surface 18 of bath chamber 12, wherein selector 42 is rotatable by a user to selectively provide various combinations of heat, massage, and bubbles to the feet". (col. 4, line 46-49).

Therefore, Kurosawa and Ferber alone or in combination do not disclose or suggest a remote control, as recited in claim 1.

Claims 3, 14, 17, 24, 27 through 32, 36 through 39, and 41 depend from claim 1 and claims 18, 20, 23, 24, 26 through 34, and 40 depend from claim 17 that further depends from claim 1, and, thus, are also patentable over Kurosawa and Ferber alone or in combination. Reconsideration and withdrawal of the rejection are requested.

Claims 5, 6, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Barradas U.S. Patent No. 5,588,161 (hereinafter "Barradas"). Claim 5 has been cancelled rendering the rejection moot.

Claims 6 provides for all of the elements recited in claims 1, and further provides that the remote control generates a signal for controlling any of a variety of different functions associated with the foot spa.

Claim 21 provides for all of the elements recited in claims 1 and 17, and further provides a controller for controlling any of a variety of operative functions associated with the foot spa, wherein said controller is remote from the foot spa.

Barradas provides a control located within a compartment having a power cord with removable remote control unit. (col. 2, lines 50-52).

Barradas does not disclose or suggest that the remote control generates a signal for controlling any of a variety of different functions associated with the foot spa or a controller for controlling any of a variety of operative functions associated with the foot spa, as recited by claims 6 and 21, respectively. Moreover, there is no suggestion or motivation to combine Kurosawa with Barradas. Reconsideration and withdrawal of the rejection are requested.

Claims 6 and 21 depend from claim 1, and, thus, are also patentable over Kurosawa and Barradas alone or in combination. Reconsideration and withdrawal of the rejection are requested.

Claims 10, 12, and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kurosawa in view of Morton U.S. Patent Application Publication No. 2003/0220593 (hereinafter "Morton"). Claim 5 has been cancelled rendering the rejection moot.

Claim 10 depends from claim 9, that further depends on claim 8 that depends from claim 1, and, thus, claim 10 includes all the features of claim 1.

Claim 12 depends from claim 1, and, thus, claim 10 includes all the features of claim 1.

Claim 13 depends from claim 12 that further depends on claim 1, and, thus, claim 10 includes all the features of claim 1.

Again, Kurosawa provides for push buttons or rotating dials as shown in Figure 1 and "vibrators 8 controlled by control means 10". (col. 3, lines 16-17).

Morton is assigned to the Assignee of the application, Conair Corporation. Morton has a publication date of November 27, 2003 which is subsequent to the filing date of the application, September 11, 2003, and, thus, Morton is not prior art to the application. A terminal disclaimer will be provided if appropriate upon allowance of the claims.

As discussed above, Kurosawa does not disclose or suggest a remote control, as recited in claim 1.

Reconsideration and withdrawal of the rejection are requested.

Claim 18 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kurosawa, Ferber, and US Patent No. 6,805,678 to Cafaro (hereinafter "Cafaro").

Claims 18 provides for all of the elements recited in claims 1. Claim 1 provides a remote control.

Again, Kurosawa provides for push buttons or rotating dials as shown in Figure 1 and "vibrators 8 controlled by control means 10". (col. 3, lines 16-17).

Again, Ferber provides that "a selector 42 is located on upper surface 18 of bath chamber 12, wherein selector 42 is rotatable by a user to selectively provide various combinations of heat, massage, and bubbles to the feet". (col. 4, line 46-49).

Cafaro provides a "[s]witch 144 is disposed in the tub shroud 110, and is electrically connected to the electrical components within the tub housing 106 and to an external power supply (not shown)." (col. 2, lines 64-67).

As discussed above, Kurosawa and Ferber alone or in combination fail to disclose or suggest a remote control as provided by claim 1.

Cafaro also fails to disclose or suggest a remote control as provided by claim 1. In contrast, Cafaro provides a switch on the footbath, as clearly shown in Figure 1. Reconsideration and withdrawal of the rejection are requested.

Thus, Kurosawa, Ferber, and Cafaro alone or in combination fail to disclose or suggest a remote control as provided by claim 1. Claim 18 depends from claim 1, and, thus, is also patentable over Kurosawa, Ferber, and Cafaro alone or in combination. Reconsideration and withdrawal of the rejection are requested.

Claim 25 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,598,244 to Yeh.

Claim 25 provides for all of the elements recited in claims 1 and 17, and further provides an ion and/or ozone emitter for emitting ions into the fluid.

Yeh provides “ozone and the fluid pumped through the tubular member 300, by the water pressure pump 34, may thus be suitably mixed together and mixed with each other into an ozonized water, and the well mixed ozonized water may then be supplied into the recess 23 of the container 20 via the nozzle 41”.

Therefore, Yeh does not disclose or suggest an ion and/or ozone emitter for emitting ions into the fluid, as recited by claim 25. Reconsideration and withdrawal of the rejection are requested.

Claim 40 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kurosawa, Ferber, and US Patent No. 5,974,909 to Bauer et al. (hereinafter “Bauer”).

Claims 40 provides for all of the elements recited in claims 1 and 17. Claim 1 provides a remote control.

Again, Kurosawa provides for push buttons or rotating dials as shown in Figure 1 and “vibrators 8 controlled by control means 10”. (col. 3, lines 16-17).

Again, Ferber provides that “a selector 42 is located on upper surface 18 of bath chamber 12, wherein selector 42 is rotatable by a user to selectively provide various combinations of heat, massage, and bubbles to the feet”. (col. 4, line 46-49).

Bauer provides a control knob.

As discussed above, Kurosawa and Ferber alone or in combination fail to disclose or suggest a remote control as provided by claim 1.

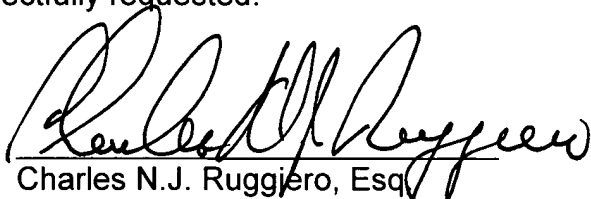
Cafaro also fails to disclose or suggest a remote control as provided by claim 1. In contrast, Cafaro provides a control knob, as clearly shown in Figure 1. Reconsideration and withdrawal of the rejection are requested.

Thus, Kursawa, Ferber, and Bauer alone or in combination fail to disclose or suggest a remote control as provided by claim 1. Claim 40 depends from claims 1 and 17, and, thus, is also patentable over Kurosawa, Ferber, and Bauer alone or in combination. Reconsideration and withdrawal of the rejection are requested.

Claim 43 includes all of the features of claim 1 and further provides one or more foot bed inserts that cooperate with the foot supporting bottom wall and, thus, is also patentable over the cited prior art.

In view of the above, reconsideration and withdrawal of the rejections and passage of this application to allowance are respectfully requested.

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Amendments to the Drawings:

Figure 21 has been corrected to add reference numerals "90" and "92". Figures 3 and 15 have been corrected to add cross-hatching. Figure 17 has been corrected to replace reference numeral "37'" with "34'". Figure 19 has been corrected to replace reference numeral "52" with reference numeral "49".